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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,718	09/15/2000	Timothy A. Wurtz	SFN-301RI	1956

7590

06/21/2005

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EXAMINER

GLESSNER, BRIAN E

ART UNIT

PAPER NUMBER

3676

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/662,718	Applicant(s) WURTZ ET AL.	
	Examiner Brian E. Glessner	Art Unit 3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/9/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-11,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-11,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>APPENDIX A</u>                         |

### DETAILED ACTION

The amendment to the claims filed on 09/09/04 failed to comply with 37 CFR 1.173 because any additions to the claims must be shown by underlining, any deletions to the claims must be shown by single brackets, and any new claims must be totally underlined. All of these changes must be shown with respect to the original patent and not the previous amendment. Also, 37 CFR 1.173 (c) requires a discussion of support in the specification for all changes, including the basis for all new claims. The applicant must also indicate the status of all of the claims.

The examiner has reproduce in APPENDIX A an amendment which follows the amendments proposed throughout the prosecution of the application and complies with 37 CFR 1.173.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 1-3, 5-11, 21 and 22 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Art Unit: 3635

Status of Amendments:

The preliminary amendment dated 9/15/00 has not been entered because it contains claim 2. Claim 2 was not amended. Therefore, it should not have been included in the amendment.

The amendment dated 3/29/02 is in acceptable form and would have been entered if the preliminary amendment had been entered.

The amendment filed on 10/11/02 is in acceptable form and would have been entered if the preliminary amendment had been entered.

The amendment filed on 8/9/04 has not been entered because it contains claims that have not been amended or canceled.

The amendment filed on 9/9/04 has not been entered for the reasons set forth above.

The application is in condition for allowance except for the following formal matters:


- a. An amendment to the claims, such as that in attached APPENDIX A, which complies with 37 CFR 1.173 should be filed,
- b. a supplemental oath/declaration containing the following language must be filed with the amendment.

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian E. Glessner whose telephone number is 571-272-6843. The examiner can normally be reached on Monday through Thursday 7:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brian E. Glessner  
Primary Examiner  
Art Unit 3635

B.G.  
June 8, 2005

## APPENDIX A

1. (amended) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having an open front [side], [and] closed sides, a back, [side and] a bottom, and a removable top [side], and configured to receive and support an end of a floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the [said] removable top [side for attachment with] being attached to the floor joist retainer body when the concrete is poured into the forms [it is attached to the form] and [is] removable after the concrete is poured;

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body- the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation; and

removable means for removably attaching [said] the floor joist retainer body to the [form] forms before the concrete is poured into the forms.

3. (amended) The floor joist retainer of claim 1 wherein [said] the floor joist retainer body is formed of material to which poured concrete will not adhere.

Cancel claim 4.

5. (amended) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having an open front [side], [and] closed sides, a back, [side and] a bottom, and an open top [side], and configured to receive and support an end of a floor joist positioned within [said] the floor joist retainer body through the open top and front;

a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation;

a plurality of nail posts attached to the sides of [said] the floor joist retainer body, each positioned and configured to hold a nail with a pointed end extending into [the] a form; and

a plurality of nails positioned within [said] the nail posts and configured in size to extend a pointed end into a form.

6. (amended) The floor joist retainer of claim [1] 5, wherein [said] the floor joist retainer body is formed of material to which poured concrete will not adhere.

7. (amended) A method of positioning and supporting a floor joist within a concrete foundation formed by pouring concrete into forms using a floor joist retainer having a floor joist retainer body having an open front [side], closed sides, [and] a bottom, and a removable top [side], and configured to receive and support an end of [a] the floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the floor joist retainer further including an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured, the floor joist retainer further

including a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation, and means for removably attaching [said] the floor joist retainer body to the [form] forms before the concrete is poured into the forms, [which comprises] the method comprising:

positioning and attaching [said] the floor joist retainer to a form with the removable top [side] attached to the floor joist retainer body before the concrete is poured with the open front facing [said] the form;

pouring the concrete into the forms;

curing the concrete;

removing the forms;

removing the intermediate structural plate from the floor joist retainer body;

removing the removable top [side] from the floor joist retainer body; and

positioning [an] the end of the floor joist into the floor joist retainer body.

8. (amended) A method of positioning and supporting a floor joist within a concrete foundation formed by pouring concrete into forms using a floor joist retainer having a floor joist retainer body having an open front [side], closed sides, [and] a bottom, and a removable top [side], and configured to receive and support an end of [a] the floor joist positioned within [said] the floor joist retainer body through the [open] top and front, the floor joist retainer further including a retaining flange attached to [said] the floor joist retainer body for engagement within the concrete foundation, a plurality of nail posts attached to the sides of [said] the floor joist retainer body, each positioned and configured to hold a nail with a pointed end extending into [the] a form, and a plurality of



nails positioned within [said] the nail posts and configured in size to extend a pointed end into [a] the form [said floor joist retainer body] to removably attach [said] the floor joist retainer to [said] the form before the concrete is poured into the forms, [which comprises] the method comprising:

positioning and nailing [said] the floor joist retainer to a form, with the open front facing the form with the removable top [side] attached to the floor joist retainer body, before the concrete is poured into [said] the forms;

pouring the concrete into the forms;

curing the concrete;

removing the forms;

removing the removable top [side] from the floor joist retainer body; and

positioning an end of the floor joist into the floor joist retainer body.

9. (New) A floor Joist retainer, for use in a concrete foundation formed by pouring concrete into forms, comprising:

a floor joist retainer body having an open front, closed sides, a back, a bottom, and a removable top, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within the floor joist retainer body through the top and front, the removable top being attached to the floor joist retainer body when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body for engagement within the concrete foundation;

a plurality of nail posts attached to the sides of the floor joist retainer body, each being positioned and configured to hold a nail so that a pointed end of the nail extends into one of the forms; and

a plurality of nails positioned within the nail posts.

10. (New) The floor joist retainer of claim 9, wherein the floor joist retainer body is formed of material to which poured concrete will not adhere.

11. (New) The floor joist retainer of claim 9, further comprising an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured.

21. (New) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, comprising:

a floor joist retainer body having an open front, sides, a back, a bottom, and an open top, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within the floor joist retainer body through the open top and front;

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and back when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body for engagement within the concrete foundation;

removable means for removably attaching the floor joist retainer body to the forms before the concrete is poured into the forms; and

a plurality of nail posts attached to the sides of the floor joist retainer body, each being positioned and configured to hold a nail so that a pointed end of the nail extends into a form, where the removable means includes a plurality of nails positioned within the nail posts.

22. (New) A floor joist retainer, for use in a concrete foundation formed by pouring concrete into forms, which comprises:

a floor joist retainer body having an open front, closed sides, a back, a bottom, and a top, at least one cut being provided on the floor joist retainer body where the top connects to the sides and back so that the top is removable, the floor joist retainer body being configured to receive and support an end of a floor joist positioned within the floor joist retainer body through the top and front, the top being attached to the floor joist retainer body when the concrete is poured into the forms and removable after the concrete is poured;

a retaining flange attached to the floor joist retainer body to engage within the concrete foundation;

removable means for removably attaching the floor joist retainer body to the forms before the concrete is poured into the forms; and

an intermediate structural plate interconnecting the sides and back of the floor joist retainer body, the intermediate structural plate being attached to the sides and

Art Unit: 3635

back when the concrete is poured into the forms and removable after the concrete is poured.